

## **Assembly Bill No. 1004**

### **CHAPTER 417**

An act to amend Sections 48000, 48010, 48012, and 48013 of the Public Resources Code, relating to solid waste.

[Approved by Governor September 28, 2010. Filed with  
Secretary of State September 28, 2010.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1004, Portantino. Solid waste: State Solid Waste Postclosure and Corrective Action Trust Fund.

(1) The California Integrated Waste Management Act of 1989 requires a solid waste disposal fee, on and after January 1, 2012, to be increased by \$0.12 per ton for each operator of a solid waste landfill that notifies the Department of Resources Recycling and Recovery that it elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund, which is available for expenditure, upon appropriation by the Legislature, for corrective action and postclosure activities. However, the fee will not be operative on or after January 1, 2012, unless the department receives, on or before July 1, 2011, letters of participation in the fund from landfill operators representing at least 50% of the total volume of waste disposed of in 2010. The act requires the department to notify the State Board of Equalization on or before August 31, 2011, if the increased fee will become operative.

This bill would extend all of those dates by 6 months, except the total volume of waste would still be measured by the 2010 standard, with the exception that letters of participation would be based on submission of those letters by landfill owners rather than landfill operators. The bill also would impose the participation notification requirements on the owner of a landfill rather than the operator.

(2) The act requires an operator of a landfill that meets specified requirements, including electing to participate in the fund, to submit written notice to the department on or before July 1, 2011. The act requires an operator that is operating a landfill on July 1, 2011, and submits that notice after the increased fee goes into effect to pay all trust fund fees applicable from January 1, 2012, and a 5% penalty before being allowed to participate. For a new landfill that receives a solid waste facility permit after July 1, 2011, the act requires the operator's election to participate in the fund to be submitted in writing to the department before the department concurs in the issuance of the permit. The act also requires an operator of multiple landfills who is required to maintain evidence of financial ability and whose landfills are operating on July 1, 2011, to include all other landfills in which that operator has in common ownership in the letter of participation.

This bill would extend all of those dates by 6 months, and would apply those requirements to owners rather than operators. Additionally, a landfill with multiple owners would be authorized to participate only if all owners of that landfill elect to participate, and participation of a landfill with multiple owners would not obligate a partial owner of that landfill to include any other landfills at which the owner has full or partial ownership.

(3) The act requires the department after January 1, 2015, to report annually on expenditures from the fund, the status of cost recovery actions, and any recommended statutory changes that are necessary to ensure adequate resources are available to carry out the purposes of the fund.

This bill would require the department to begin that annual reporting after January 1, 2016, rather than January 1, 2015.

*The people of the State of California do enact as follows:*

SECTION 1. Section 48000 of the Public Resources Code is amended to read:

48000. (a) Each operator of a disposal facility shall pay a fee quarterly to the State Board of Equalization, which is based on the amount, by weight or volumetric equivalent, as determined by the Department of Resources Recycling and Recovery, of all solid waste disposed of at each disposal site.

(b) (1) The fee for solid waste disposed of shall be one dollar and thirty-four cents (\$1.34) per ton. Commencing with the 1995–96 fiscal year, the amount of the fee shall be established by the Department of Resources Recycling and Recovery at an amount that is sufficient to generate revenues equivalent to the approved budget for that fiscal year, including a prudent reserve, but shall not exceed one dollar and forty cents (\$1.40) per ton.

(2) On and after July 1, 2012, the amount of the fee established by the Department of Resources Recycling and Recovery pursuant to paragraph (1) shall be increased by twelve cents (\$0.12) per ton for each operator of a solid waste landfill whose owner has notified the department that it elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund pursuant to Article 2.1 (commencing with Section 48010).

(c) The Department of Resources Recycling and Recovery shall notify the state board on the first day of the period in which the rate shall take effect of any rate change adopted pursuant to paragraphs (1) and (2) of subdivision (b).

(d) The Department of Resources Recycling and Recovery and the state board shall ensure that all of the fees for solid waste imposed pursuant to this section that are collected at a transfer station are paid to the state board in accordance with this article.

(e) (1) The fee imposed by paragraph (2) of subdivision (b) shall not be operative on or after July 1, 2012, unless the Department of Resources Recycling and Recovery receives, on or before January 1, 2012, letters of participation in the State Solid Waste Postclosure and Corrective Action

Trust Fund from landfill owners representing at least 50 percent of the total volume of waste disposed of in 2010.

(2) The Department of Resources Recycling and Recovery shall notify the state board, on or before February 29, 2012, if the fee imposed by paragraph (2) of subdivision (b) shall become operative pursuant to paragraph (1).

SEC. 2. Section 48010 of the Public Resources Code is amended to read:

48010. (a) (1) An owner of a landfill for which evidence of financial ability is maintained pursuant to Article 4 (commencing with Section 43600) of Chapter 2 of Part 4, whose landfill is operating on January 1, 2012, and that elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund pursuant to this article, shall submit written notice to the Department of Resources Recycling and Recovery on or before January 1, 2012.

(2) Except as provided in paragraph (3), an owner of multiple landfills that elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund is required to submit written notice that includes all of the owner's operating landfills and all other landfills in which that owner has in common ownership.

(3) A landfill with multiple owners may participate only if all owners of that landfill elect to participate. Participation of a landfill with multiple owners shall not obligate a partial owner of that landfill to include any other landfill at which that owner has full or partial ownership.

(4) The Department of Resources Recycling and Recovery shall provide to the state board the name and address, and any other information necessary to administer and collect the fee imposed pursuant to paragraph (2) of subdivision (b) of Section 48000, of every owner of a landfill electing to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund on or before February 29, 2012.

(b) If an operator that is operating a landfill on January 1, 2012, submits a written notification to the Department of Resources Recycling and Recovery that it elects to participate after the trust fund fee goes into effect, the operator shall pay all trust fund fees applicable from July 1, 2012, and a 5-percent penalty before being allowed to participate.

(c) For new landfills that receive a solid waste facility permit after January 1, 2012, the owner's election to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund shall be submitted in writing to the Department of Resources Recycling and Recovery before the department concurs in the issuance of the permit pursuant to Section 44009.

(d) All elections to participate made by landfill owners pursuant to this section are final, binding, and irrevocable for those owners and their successors and assignees.

SEC. 3. Section 48012 of the Public Resources Code is amended to read:

48012. After January 1, 2016, as part of the annual report required pursuant to Section 40507, the Department of Resources Recycling and Recovery shall report on expenditures from the State Solid Waste Postclosure and Corrective Action Trust Fund, the status of cost recovery actions, and

any recommended statutory changes that are necessary to ensure adequate resources are available to carry out the purposes of the State Solid Waste Postclosure and Corrective Action Trust Fund.

SEC. 4. Section 48013 of the Public Resources Code is amended to read:

48013. Except as provided in paragraph (3) of subdivision (a) of Section 48010, an owner of multiple landfills for which evidence of financial ability is maintained pursuant to Article 4 (commencing with Section 43600) of Chapter 2 of Part 4 and whose landfills are operating on January 1, 2012, shall include all other landfills in which that owner has in common ownership in the letter of participation.